

REMARKS

This application has been carefully reviewed in light of the Final Office Action (“Office Action”) mailed July 12, 2006. At the time of the Office Action, Claims 1-21 were pending in the application. In the Office Action, the Examiner rejects Claims 1, 7, 10, 16-18 and 21 and objects to Claims 2-6, 8-9, 11-15, 19 and 20. Applicant respectfully requests reconsideration and allowance of all pending claims.

Claim Rejections - 35 U.S.C. § 103

The Examiner rejects Claims 1, 7, 10, 16-18 and 21 under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 07-321603 issued to Ruitenburg (“*Ruitenburg*”) in view of European Patent No. 0 883 237 A1 issued to Nash (“*Nash*”). Applicant respectfully requests reconsideration and allowance of Claims 1, 7, 10, 16-18 and 21.

Previously, Applicant requested that the Examiner withdraw the the *Ruitenburg-Nash* combination as improper. In particular, Applicant explained that the Examiner’s primary reference, *Ruitenburg*, teaches away from various elements of Claim 1 directed to “a phase generation circuit operable to generate a plurality of phase signals.” In the Office Action, the Examiner disagrees with Applicant’s reading of *Ruitenburg* and states, “[h]owever, the plurality of mixers of Ruitenberg receives a plurality [of] different local oscillator signals which corresponds to the plurality of phase signals.” (Office Action, ¶4). Applicant respectfully traverses the Examiner’s interpretation of *Ruitenburg*.

The Examiner cites no portion of *Ruitenburg* that discloses that its mixers receive a plurality of different local oscillator signals. Moreover, neither the English language abstract nor Figure 2 of *Ruitenburg* supports the Examiner’s position. Indeed, the Examiner specifically acknowledges that “Ruitenberg does not disclose the selected mixer stage comprising a phase generation circuit operable to generate a plurality of phase signals...” (Office Action, ¶2). On the contrary, *Ruitenburg* specifically teaches that “[p]ref[erably] the mixers in all the signal paths are coupled to a **common** oscillator (20, 21) with an associated phase-locked loop.” (Abstract; emphasis added). Furthermore, Figure 2 of *Ruitenberg* illustrates that each of the mixers 14, 15, and 16 operates in conjunction with a phase-locked loop 20 that controls common oscillator 21 such that it maintains a constant phase angle

relative to the reference signal. Thus, the oscillator 20 of *Ruitenberg* does not generate a plurality of different local oscillator signals, as suggested by the Examiner. Instead, the oscillator 20 of *Ruitenberg*, operating in conjunction with phase-locked loop 21, only generates a single local oscillator signal which is applied to each of the mixers. Therefore, *Ruitenberg* actually teaches away from “the selected mixer stage comprising ... a phase generation circuit operable to generate a plurality of phase signals” as recited, in part, in Claim 1. Therefore, the *Ruitenberg-Nash* combination is improper and the Examiner has failed to establish a *prima facie* rejection of Claim 1 under 35 U.S.C. § 103.

The Examiner acknowledges in ¶2 of the Office Action that “*Ruitenberg* does not disclose the selected mixer stage comprising a phase generation circuit operable to generate a plurality of phase signals...”, yet insists in ¶4 of the Office Action that “the plurality of mixers of *Ruitenberg* receives a plurality [of] different local oscillator signals.” These plainly contradictory positions reveal that the Examiner is applying hindsight reconstruction to reject the claims. This is impermissible. It is improper to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch*, 972 F.2d 1260 (Fed. Cir. 1992). If the Examiner insists on maintaining the rejection set forth in this Office Action, the Applicant respectfully requests the Examiner to cite specific portions of *Ruitenberg* that support the Examiner’s position set forth in ¶4.

For at least the reasons set forth above, Applicant respectfully requests reconsideration and allowance of Claim 1. Claims 10 and 17 are allowable for reasons analogous to those set forth above with regard to Claim 1. Claims 2-9, 11-16, and 18-21 depend from independent claims shown above to be allowable. For at least these reasons, Applicants respectfully request reconsideration and allowance of Claims 2-21.

Allowable Subject Matter

The Examiner objects to Claims 2-6, 8-9, 11-15, 19 and 20 as being dependent upon a rejected base claim, but indicates that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant respectfully declines the Examiner’s invitation to amend these claims in this way at this time in view of the remarks set forth herein.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of all pending claims.

If there are matters that can be discussed by telephone to further the prosecution of this Application, Applicant invites the Examiner to call the undersigned attorney at (214) 953-6581 at the Examiner's convenience.

Although no fees are believed due, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTs L.L.P.
Attorneys for Applicant



Samir A. Bhavsar
Reg. No. 41,617

Date: September 12, 2006

Correspondence Address:

Customer Number: **05073**